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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,697	08/07/2001	Barry D. Olson	CN-0102	1564

23906 7590 09/11/2002

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER

SIMONE, CATHERINE A

ART UNIT	PAPER NUMBER
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1772

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DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/923,697

Applicant(s)

OLSON ET AL.

Examiner

Catherine Simone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-9, drawn to a decorative material, classified in class 428, subclass 156.
 - II. Claims 10 and 11, drawn to a method of forming a decorative material, classified in class 156, subclass 349+.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed in Invention I can be made by another and materially different process without the steps of the Group II process i.e. fusing adjacent surfaces of individual discrete portions to form the decorative material having geometric patterns etc.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Andrew Golian on August 28, 2002 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10 and 11 are

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withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Objections

2. **Claim 1** is objected to because of the following informalities: “having” should be replaced with “comprising”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 1-9** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation “the visual appearance of the geometric patterns vary due to different cross sections of a geometric shape being exposed on the surface of the material” in claim 1 is deemed vague and indefinite. What do you mean by “different cross sections”? Clarification is requested.

The recitation “contains additional thermoset composition which is not present in the geometric patterns” in claim 6 is deemed vague and indefinite. How can that be? What do you mean? Clarification is requested.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1, 2 and 4-9** are rejected under 35 U.S.C. 102(b) as being anticipated by Barnett (5,820,799).

Barnett discloses a decorative material having geometric patterns on a surface (Fig. 2) thereof the geometric patterns are formed from at least two contrasting thermoset compositions (see col. 4, lines 43-55) a) wherein the geometric patterns are three dimensional and extend inwardly from a surface of the material (see col. 2, lines 5-10) and b) wherein the visual appearance of the geometric patterns appear to vary due to the different cross sections of a geometric shape being exposed on the surface of the material. Regarding **claim 2**, the geometric patterns appear to extend throughout interior portions of the decorative material (see col. 2, lines 5-10). Regarding **claims 4 and 5**, the geometric patterns comprise swirls (see col. 3, lines 40-42). Regarding **claim 6**, note an additional thermoset composition which is not present in the geometric patterns (see col. 4, lines 61-67). Regarding **claim 7**, at least one of the molding compositions comprises an acrylic (see col. 4, lines 16-19). Regarding **claims 8 and 9**, the filler comprises alumina trihydrate (see col. 2, lines 39-41).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnett (5,820,799) in view of Takahashi et al. (6,428,875).

Barnett discloses a decorative material having geometric patterns on a surface (Fig. 2) thereof the geometric patterns are formed from at least two contrasting thermoset compositions (see col. 4, lines 16-25) a) wherein the geometric patterns are three dimensional and extend inwardly from a surface of the material (see col. 2, lines 5-10) and b) wherein the visual appearance of the geometric patterns vary due to the different cross sections of a geometric shape being exposed on the surface of the material. However, Barnett fails to disclose the geometric patterns comprising stripes. Takahashi et al. teaches it is known in the art to have geometric patterns comprising stripes (see col. 6, lines 40-43) for the purpose of providing a different type of pattern to a decorative material.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the geometric patterns in Barnett with stripes as suggested by Takahashi et al. in order to provide a different type of pattern to a decorative material.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents are cited for further teachings of decorative materials similar to that instantly disclosed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (703) 605-4297. The examiner can normally be reached on 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (703) 308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

CAS

Catherine Simone
Examiner
Art Unit 1772

September 5, 2002

Harold Pyon
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772 *9/8/02*